IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE EIGHTH DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE S.ANANDA REDDY

WRIT PETITION NO : 11525 of 2004

Between:

Sri Sanapala Bangarraju, s/o Seetharamayya,
R/o 39-14-35, Madhavadhara, Visakhapatnam-7, Visakhapatnam District.

..... PETITIONER

AND

1 Simhachalam Devasthanam, Simhachalam rep., by its Executive Officer, Simhachalam, Visakhapatnam District.
2 The Government of Andhra Pradesh rep., by Principle Secretary Endowments Department, Secretariat, Hyderabad, Andhra Pradesh.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue any writ, order or direction more particularly one in the nature of writ of mandamus declaring the actions of the respondents in not selling the land of Ac.5.00 in S.No.275 of Adavivaram Village, Visakhapatnam District belonging to 1st respondent to him as per market value fixed and attempting to alienate the same to others ignoring his rights to purchase the same in the first instance as per section 82 of the A.P.Charitable and Hindu Religious Institutions and Endowment Act as illegal, arbitrary capricious and violative of principles of natural justice and consequently to direct the respondents to sell the said land to him for market value fixed by the respondents as per rules within the time fixed by this Hon'ble Court or to pass any other order

Counsel for the Petitioner: SMT.N.(P).ANJANA DEVI, -

- SATYANARAYANA

Counsel for the Respondents: GP FOR ENDOWMENTS

The Court made the following O R D E R:

This writ petition is filed by the petitioner claiming to be the tenant of the first respondent in respect of land in an extent of Ac.5.00 gts in Sy.No.275 of Adavivaram village, Visakhapatnam District. The grievance of the petitioner is that the first respondent is proposing to alienate the above land in favour of third parties, which is contrary to the provisions of Section 82 of the Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Act, 1987 (for short "the Act"). According to the petitioner, he is not having any other land except the subject land of Ac.5.00 gts, which is a dry land and if the said extent is taken into account, the petitioner is a landless poor in terms of Section 82 of the Act, in which case, the petitioner has got a preferential right to purchase the land at 75 per cent of the market value, which is payable in installments. Instead of giving such an offer to sell the said land in favour of the petitioner, the first respondent is illegally proposing to sell the land to third parties, therefore, the present writ petition.

Learned counsel for the petitioner contended that the issue whether the petitioner is a landless poor or not in terms of Section 82 of the Act read with G.O.Ms.No.379 has to be enquired into by the respondents, and without even such an enquiry, the respondents have resorted to sell the land to third parties, therefore, sought for appropriate orders.

Heard learned counsel for the petitioner and the learned Standing Counsel for the respondents and the writ petition is disposed of at the admission stage.

The petitioner is claiming to be the tenant in respect of Ac.5.00 gts of dry land belonging to the first respondent. It is also the case of the petitioner that the first respondent is proposing to sell the said property to third parties, which is not permissible under the provisions of Section 82 of the Act. But, in order to make a claim under Section 82 of the Act, the petitioner has to get himself declared as a landless poor, but so far, petitioner did not make any such application before Assistant Commissioner of Endowments who is the competent authority to enquire

into and declare whether the petitioner is a landless poor or not.

Under the above circumstances, the writ petition is disposed of diPrecting the petitioner to make an application to the Assistant Commissioner of Endowments, having jurisdiction over the area for declaration as a landless poor person in terms of Section 82 of the Act read with G.O.Ms.No.379, within a period of two weeks from the date of receipt of a copy of this order. On such application being made, the Assistant Commissioner is directed to dispose of the said application after considering the claim of the petitioner determining the status of the petitioner. Till the said proceedings are disposed of determining the status of the petitioner, the first respondent is directed not to alienate the land in an extent of Ac.5.00 gts, situated in Sy.No.275 of Adavivaram Village, Visakhapatnam District, which is subject matter of the present writ petition.

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08-07-2004

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To

1 The Executive Officer, Simhachalam Devasthanam,

Simhachalam, Visakhapatnam District.

2 The Principal Secretary, Government of Andhra Pradesh

Endowments Department, Secretariat, Hyderabad, Andhra

Pradesh.

3 Two C.Cs to the Government Pleader for Endowments, High

Court Buildings, A.P., Hyderabad (OUT)

4 Two C.D copies.